

(323) 881-2401

September 5, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**REQUEST FOR APPROVAL AND AWARD OF THE
CYLINDER REQUALIFICATION SERVICES CONTRACT TO TANKS
UNLIMITED
(DISTRICTS 1 AND 3) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY OF
THE CONSOLIDATED FIRE PROTECTION DISTRICT:**

1. Find that this contract is exempt from the provisions of the California Environmental Quality Act (CEQA).
2. Instruct the Chair to sign the Cylinder Requalification Services Contract with Tanks Unlimited.
3. Effective upon Board approval, the term will be for a period of three (3) years at a cost of \$31,000 per Fiscal Year (FY). In addition, authorize expenditures for the renewal options, which include an additional two (2) one-year periods for \$31,000 per FY and six (6) month-to-month extensions for \$15,500. The renewal options include Cost of Living Adjustments (COLA) requests for multi-year service contracts (Policy No. 5.070 of the Board of Supervisors Policy Manual). The COLA allows for the contract amount to be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index or any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office (CAO) as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, no COLAs will be granted.

4. Delegate authority to the Fire Chief, or his designee, to exercise the renewal options, which include the additional two (2) one-year periods and six (6) month-to-month extensions under the terms of the contract at his sole discretion. In addition, authorize the Fire Chief or authorized designee to amend this contract by way of rate increases and to approve necessary changes to the scope in service.
5. Authorize the Fire Chief or authorized designee to suspend and/or terminate the contract, if deemed necessary, as outlined in the District's Cylinder Requalification Services Contract.

PURPOSE OF RECOMMENDED ACTION:

Board approval is required to execute this Service Agreement between the District and Tanks Unlimited. Board approval will enable the District to continue to obtain cylinder requalification services on an as-needed basis. Currently, the District is being provided these services through a blanket purchase order. Due to the \$100,000 maximum limit established by the County's Internal Services Department, it is essential that the Board authorize this Service Agreement so cylinder testing may continue without interruption. District employees use the cylinders as part of their breathing apparatus equipment in the performance of their duties.

In addition, the renewal options, which include the two (2) one-year periods, will cost \$31,000 per FY and the six (6) month-to-month extensions will cost \$15,500. These renewal options are subject to include COLA requests for multi-year service contracts, allowing for increases based upon the CPI or upon, and that shall not exceed the general salary movement granted to County employees as determined by the CAO as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, no COLAs will be granted.

ENVIRONMENTAL DOCUMENTATION:

The services provided through this contract will not have a significant effect on the environment and is therefore exempt from CEQA, pursuant to Section 15061(b)(3) of the CEQA Guidelines.

JUSTIFICATION:

The services for cylinder requalification can be provided by an independent vendor who is registered by the Department of Transportation's (DOT) Associate Administrator for Hazardous Material Safety to perform such service. Presently, the recommended bidder is performing these services through a blanket purchase order and has shown it is qualified to perform the duties as outlined in the Statement of Work. Tanks Unlimited possesses a retester identification number from the DOT, thereby meeting the District's requirements.

Implementation of Strategic Plan Goals

In accordance with the Strategic Plan goals of service excellence, fiscal integrity, organizational effectiveness, and workforce excellence, the implementation of this vendor under contract, along with the increased requirements for professionalism and expertise, promotes and further enhances the District's goals in the cylinder requalification services area.

FISCAL IMPACT/FINANCING

The Annual Contract Expenditure Authority for the contract's first three (3) years is \$93,000. This amount reflects the District's current and previous FY expenditures. In addition, the cost for the renewal options include \$31,000 per FY for each of the two (2) one-year periods and \$15,500 for the six (6) month-to-month extensions with allowances for COLA increases.

There is no impact on net County cost. Funding has been included in the District's FY 2003-2004 Adopted Budget. Funding for future FYs will be requested as part of the District's annual Budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The District recommends awarding Tanks Unlimited the Cylinder Requalification Services Contract. The contract term is for a period of three (3) years with a possible additional two (2) one-year periods and six (6) month-to-month extensions.

Tanks Unlimited is in compliance with all Board, CAO and County Counsel requirements. The Risk Management Section of the CAO has approved insurance coverage required by the contract. This contract has been properly executed by Tanks Unlimited and County Counsel has approved it as to form.

The contract provides that no payment for services will be provided following expiration and/or termination of contract.

CONTRACTING PROCESS:

The Invitation for Bids (IFB) was released on April 24, 2003 and seventeen vendors (shown as Attachment 1) were notified regarding the release of the IFB. The release of the IFB was advertised in eleven newspapers and online at the Los Angeles County web page. The contract is subject to District policy that requires compliance with the Child Support Compliance Program, Contractor Responsibility and Debarment Program, and the Contractor Employee Jury Service Program and were included as requirements in the IFB.

One (1) proposal was received and reviewed for compliance with the minimum requirement criteria stated in the IFB. The District has reviewed available resources to assess the proposed contractor's past performance and any negative experience with other contracts.

This contract does include a Cost of Living Adjustment (COLA) for the possible additional two (2) one-year periods and six (6) month-to-month extensions which allow for the contract amount to be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index or any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, no COLAs will be granted.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

No layoffs or reductions in County workforce or other adverse impacts to County employees will result from this award, as the work is presently contracted out.

CONCLUSION

The Honorable Board of Supervisors

September 5, 2003

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Upon execution by your Honorable Board, the District will need an adopted, stamped copy of this letter and original copy of the contract. It is requested that the Executive Officer, Board of Supervisors, notify the District's Contracts Section at (323) 881-3022 when the document becomes available.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. Michael Freeman", with a long horizontal stroke extending to the right.

P. MICHAEL FREEMAN

PMF:SMC:smc

Attachments

c: Chief Administrative Office
County Counsel
Executive Office, Board of Supervisors



CONTRACT

BY AND BETWEEN

**CONSOLIDATED FIRE PROTECTION DISTRICT
OF LOS ANGELES COUNTY**

AND

TANKS UNLIMITED

FOR

CYLINDER REQUALIFICATION SERVICES

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This Contract, including Exhibits, are made and entered into this _____ day of _____, 2003,

RECITALS

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

Exhibits A, B, C, D, E, F, G, H, and I are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority:

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- 1.2 EXHIBIT B - Statement of Fixed Fees
- 1.3 EXHIBIT C - Contractor's EEO Certification
- 1.4 EXHIBIT D - District's Administration
- 1.5 EXHIBIT E - Contractor's Administration
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- 1.8 EXHIBIT H - Local Small Business Enterprise Preference Program
- 1.9 EXHIBIT I - Safely Surrendered Baby Law

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change notice or amendment to this Contract shall be valid unless prepared pursuant to Sub-paragraph 8.4 - Change Notices and Amendments and signed by both parties.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 **Contract:** Agreement executed between District and Contractor. It sets forth the terms and conditions for the issuance and performance of the *Statement of Work, Exhibit A*.
- 2.2 **Contractor:** Tanks Unlimited has entered into a contract with the District to perform or execute the work covered by the Statement of Work.
- 2.3 **Contractor's Project Manager:** The individual designated by the Contractor to administer the Contract operations after the Contract award.
- 2.4 **County:** Refers to the County of Los Angeles.
- 2.5 **District:** Consolidated Fire Protection District of Los Angeles County.
- 2.6 **District's Contract Administrator:** Person designated by District with authority for District on contractual or administrative matters relating to this Contract that cannot be resolved by the District's Project Manager.
- 2.7 **District's Contract Director:** Person designated by District with authority for District on contractual or administrative matters relating

to this Contract that cannot be resolved by the District's Contract Administrator and/or District's Project Manager.

2.8 District's Project Manager: Person designated by District to manage the operations under this Contract.

2.9 Fiscal Year: The twelve (12) month period beginning July 1st and ending the following June 30th.

3.0 WORK

3.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in the *Statement of Work, Exhibit A*.

3.2 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the District.

4.0 TERM OF CONTRACT

4.1 The term of this Contract shall be for a period of three (3) years (Initial Term) commencing _____ (Effective Date) after execution by District's governing body, the Board of Supervisors, unless sooner terminated or extended, in whole or in part, as provided in this Contract.

4.2 The District shall have the sole and exclusive option to extend the Contract term for up to two (2), additional one-year periods and six (6) month-to-month extensions, for a maximum total Contract term of five (5) years and six (6) months. Each extension shall be exercised individually and separately at the sole and exclusive discretion of the Fire Chief or authorized designee.

4.3 Contractor shall notify District when this Contract is within six (6) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, Contractor shall send written notification to DISTRICT at the address herein provided in *Exhibit D – District's Administration*.

5.0 CONTRACT SUM

5.1 The amount the District shall expend from its own funds during the Contract's Initial Term of three (3) years for Cylinder Requalification Services shall not exceed \$31,000 per Fiscal Year, a total of \$93,000. In addition, the Contract allows for renewal options that include two (2) one-year periods at \$31,000 per Fiscal Year and six (6) month-to-month extensions for \$15,500. The Contract's renewal options are also subject to Paragraph 5.7, Cost of Living Adjustments (COLA's).

5.2 Contractor has provided District with a *Statement of Fixed Fees, Exhibit B*, to be charged during the Contract term. During the Contract term, there may be adjustments in the type of services required as set forth below. District shall negotiate prices for unforeseen circumstances not identified in this Contract.

- Cylinders added/deleted at the request of the District on a permanent basis will be negotiated based on the new requirement.

5.3 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as specified herein. Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the District's express prior written approval.

5.4 Contractor shall maintain a system of record keeping that will allow Contractor to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, Contractor shall send written notification to District at the address herein provided in *Exhibit D*.

5.5 No Payment for Services Provided Following Expiration/Termination of Contract

Contractor shall have no claim against District for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Contract. Should Contractor receive any such payment it shall immediately notify District and shall immediately repay all such funds to District. Payment by District for services rendered after expiration/termination of this Contract shall not constitute a waiver of District's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Contract.

5.6 Invoices and Payments

5.6.1 The Contractor shall invoice the District only for providing the tasks, deliverables, goods, services, and other work specified in *Exhibit A - Statement of Work* and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the District under the terms of this Contract. The Contractor's payments shall be as provided in *Exhibit B – Statement of Fixed Fees*, and the Contractor shall be paid only for the tasks, deliverables,

goods, services, and other work approved in writing by the District. If the District does not approve work in writing no payment shall be due to the Contractor for that work.

1. **5.6.2** The Contractor's invoices shall be priced in accordance with *Exhibit B - Statement of Fixed Fees*.

5.6.3 The Contractor's invoices shall contain the information set forth in *Exhibit A - Statement of Work* describing the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

5.6.4 The Contractor shall submit the monthly invoices to the District by the 15th calendar day of the month following the month of service.

5.6.5 Payment to Contractor shall be made on an arrears basis, upon acceptance of completed work by District, provided that the Contractor is not in default under any provisions of this Contract. Contractor shall not be compensated for partially completed work, however, progress payments may be made to Contractor for completed portions of a project, at the sole discretion of District. Contractor is to provide the completed **ORIGINAL** invoice directly to:

Consolidated Fire Protection District of Los Angeles County
Financial Management Division
P.O. Box 910901
Commerce, CA 90091-0901

Payment shall constitute acceptance of work. Estimated payment time is thirty (30) days, pending acceptance and approval of the work by the District's Project Manager or authorized designee and compliance with the aforementioned invoicing procedures. To assist the District in making timely payments for services provided hereunder, Contractor's invoices shall contain the following:

- (1) Contract number.
- (2) A breakdown of cost, e.g., quantity x unit price = total price.
- (3) A copy of subcontractor or sublet cost with invoice if a portion of work is contracted out.

Payment for all completed work shall be contingent upon approval of an itemized invoice by District's authorized representative. Other than the prices or rates submitted by the Contractor, no estimate of cost furnished by either of the

parties shall be construed as determining the compensation for any of the work to be performed pursuant to this Contract.

5.6.6 District Approval of Invoices

Contractor shall provide one (1) completed COPY of the invoice to the District representative authorizing the work, who shall review and approve all invoices for payment. In no event shall the District be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld, and in no instance will such District approval take more than two (2) weeks from receipt of properly prepared invoices. Copy shall be mailed to:

County of Los Angeles Fire Department
Breathing Apparatus Shop Supervisor
12605 Osborne Street
Pacoima, CA 91331-2129

5.6.7 Contract Discrepancy Report

District's Project Manager shall review all invoices for any discrepancies and issue a Contract Discrepancy Report (CDR) to Contractor within five (5) working days of invoice if payment amounts are disputed. Contractor shall review the disputed charges and send a written explanation detailing the basis for the charges within five (5) working days of receipt of the CDR from District's Project Manager. If District's Project Manager does not receive a written response within five (5) working days of District's notice to Contractor of a CDR, then District payment will be made, less the disputed charges.

5.6.8 District's Right to Withhold

In addition to any rights of District provided in this Contract, or at law or in equity, District may, upon notice to Contractor, withhold payment for any work while Contract is in default hereunder, or at any time that Contractor has not provided District approved Work, except that District shall not withhold payment for work that has already been approved before Contractor entered default or failed to provide approved work.

5.7 Cost of Living Adjustments (COLA's)

Commencing upon the expiration of the Initial Term, the Contract (hourly, daily, monthly, etc.) amount may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the contract anniversary date of the expiration of the

Initial Term and any applicable extension, which shall be the effective date for any cost of living adjustment. However, any increase shall not exceed the general salary movement granted to County employees as determined by the Chief Administrative Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent the Board of Supervisors from approving any increase in County employee salaries, no cost of living adjustments will be granted. Contractor shall submit proposed adjustment to District's Contract Administrator no later than sixty (60) days prior to the expiration of the Initial Term and each extension. All price increases shall be subject to acceptance and approval by the District's Contract Administrator. After approval by the District's Contract Administrator, the revised price can't be increased for a period of one year from the date of District's approval.

6.0 ADMINISTRATION OF CONTRACT - DISTRICT

A listing of all District personnel involved with District Administration referenced in the following Sub-paragraphs are designated in *Exhibit D*. The District shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 District's Contract Administrator

Refer to *Exhibit D, District's Administration*

Responsibilities of the District's Contract Administrator include:

- making changes in the terms and conditions of this Contract in accordance with Sub-paragraph 8.4, Change Notices and Amendments; and
- providing direction to Contractor in the areas relating to District policy, information requirements, and procedural requirements; and
- ensuring all terms and conditions of this Contract are met.

6.2 District's Contract Director

Refer to *Exhibit D, District's Administration*

The responsibility of the District's Contract Director is to resolve any disputes between the District and the Contractor.

6.3 District's Project Manager

Refer to *Exhibit D, District's Administration*

The responsibilities of the District's Project Manager include:

- ensuring that the objectives of this Contract are met;

- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of Contractor.

The District's Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate District in any respect whatsoever.

7.0 ADMINISTRATION OF CONTRACT – CONTRACTOR

A listing of all Contractor's Administration referenced in the following Sub-paragraphs are designated in *Exhibit E*. The Contractor shall notify the District in writing of any change in the names or addresses shown.

7.1 Contractor's Project Manager

7.1.1 Contractor's Project Manager is designated in *Exhibit E*. The Contractor shall notify the District in writing of any change in the name or address of the Contractor's Project Manager.

7.1.2 Contractor's Project Manager shall be responsible for Contractor's day-to-day activities as related to this Contract and shall coordinate with District's Project Manager.

7.2 Approval of Contractor's Staff

District has the absolute right to approve or disapprove all of Contractor's staff performing work hereunder and any proposed changes in Contractor's staff, including, but not limited to, Contractor's Project Manager.

7.3 Confidentiality

7.3.1 Contractor shall maintain the confidentiality of all records obtained from the District under this Contract in accordance with all applicable Federal, State or local laws, ordinances, regulations and directives relating to confidentiality.

7.3.2 Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract. The Contractor shall cause each employee performing services covered by this Contract to sign at time of hire and adhere to the "*Contractor Employee Acknowledgment & Confidentiality Agreement*", *Exhibit F1*.

7.3.3 Contractor shall cause each non-employee performing reoccurring services covered by this Contract to sign before beginning service and adhere to the "*Contractor Non-Employee Acknowledgment & Confidentiality Agreement*", *Exhibit F2*.

8.0 TERMS AND CONDITIONS

8.1 ASSIGNMENT AND DELEGATION

2. **8.1.1** The Contractor shall not assign its rights or delegate its duties under this Contract, or both, either in whole or in part, without the prior written consent of the Fire Chief or authorized designee. Any unapproved assignment or delegation shall be null and void. Any payments by the District to any approved delegate or assignee on any claim under this Contract shall be deductible, at District's sole discretion, against the claims, which the Contractor may have against the District.
3. **8.1.2** If any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without District's express prior written approval, may result in the termination of this Contract.

8.2 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

8.3 BUDGET REDUCTIONS

It is the District's policy that in the event that the Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of District employees and imposes similar reductions with respect to District Contracts, the District reserves the right to reduce its payment obligation correspondingly for that fiscal year and any subsequent fiscal year services provided by the Contractor under the Contract. The District's notice to the Contractor regarding said reduction in payment obligation shall be provided within 30 calendar days of the Board's approval of such actions. The Contractor shall continue to provide all of the services set forth in the Contract.

8.4 CHANGE NOTICES AND AMENDMENTS

- 8.4.1** The District reserves the right to initiate Change Notices that **do not affect** the scope of work, term, Contract Sum or payments. All such changes shall be accomplished with an

executed Change Notice signed by the Contractor and by District's Contract Administrator or authorized designee.

8.4.2 For any change which affects the scope of work, term, Contract Sum, payments, or any term or condition included under this Contract, an Amendment shall be prepared and executed by the District's Contract Director or authorized designee.

8.4.3 The District's Board of Supervisors or Chief Administrative Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The District reserves the right to add and/or change such provisions as required by the District's Board of Supervisors or Chief Administrative Officer. To implement such orders, an Amendment to the Contract shall be prepared and executed by the Contractor and by District's Contract Administrator or authorized designee.

8.4.4 The Fire Chief, or authorized designee, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 - Term of Contract. The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions.

8.5 COMPLAINTS

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints. Within forty-five (45) business days after Contract's effective date, the Contractor shall provide the District with the Contractor's policy for receiving, investigating and responding to user complaints.

8.5.1 The District will review the Contractor's policy and provide the Contractor with approval of said policy or with requested changes.

8.5.2 If the District requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the policy within five (5) business days.

8.5.3 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the District for approval before implementation.

The Contractor shall preliminarily investigate all complaints and notify the District's Project Manager of the status of the investigation within five (5) business days of receiving the complaint.

When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

Copies of all written responses shall be sent to the District's Project Manager within three (3) business days of mailing to the complainant.

8.6 COMPLIANCE WITH APPLICABLE LAW

8.6.1 The Contractor shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.

8.6.2 The Contractor shall indemnify and hold harmless the District from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of the Contractor or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with *Exhibit D - Contractor's EEO Certification*.

8.8 COMPLIANCE WITH THE DISTRICT'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

It is the District's policy that this Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

8.8.2 Written Employee Jury Service Policy.

8.8.2.1 Unless Contractor has demonstrated to the District's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that

Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

8.8.2.2 For purposes of this Sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the District or a subcontract with a District Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more District contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the District, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the District under the Contract, the subcontractor shall also be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

8.8.2.3 If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify District if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The District may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the District's satisfaction that Contractor either continues to

remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

- 8.8.2.4** Contractor's violation of this Sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, District may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future District contracts for a period of time consistent with the seriousness of the breach.

8.9 CONFLICT OF INTEREST

- 8.9.1** No District employee whose position with the District enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the District's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the District's approval or ongoing evaluation of such work.
- 8.9.2** The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the District. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Sub-paragraph shall be a material breach of this Contract.

8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give **first consideration** for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS

Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

8.12 CONTRACTOR'S RESPONSIBILITY AND DEBARMENT

8.12.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the District's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the District acquires information concerning the performance of the Contractor on this or other Contracts which indicates that the Contractor is not responsible, the District may, in addition to other remedies provided in the Contract, debar the Contractor from bidding on any District Contracts for a specified period of time not to exceed three (3) years, and terminate any or all existing Contracts the Contractor may have with the District.

8.12.3 Non-responsible Contractor

The District may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a Contract with the District, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a Contract with the District or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of

business integrity or business honesty, or (4) made or submitted a false claim against the District or any other public entity.

8.12.4 Contractor Hearing Board

If there is evidence that the Contractor may be subject to debarment, the District will notify the Contractor in writing of the evidence that is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.

A record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of District Contractors.

8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF DISTRICT'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT

The Contractor acknowledges that the District places a high priority on the enforcement of child support laws and the apprehension of child support evaders. The Contractor understands that it is the District's policy to encourage all District Contractors to voluntarily post the District's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at the Contractor's place of business. The County's Child Support Services Department will supply the Contractor with the poster to be used.

8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO DISTRICT'S CHILD SUPPORT COMPLIANCE PROGRAM

8.14.1 The Contractor acknowledges that the District has established a goal of ensuring that all individuals who benefit financially from the District through Purchase Order or Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County taxpayers of Los Angeles County.

8.14.2 As required by the District's Child Support Compliance Program and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 CONTRACTOR'S ACKNOWLEDGMENT OF DISTRICT'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the District places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the District's policy to encourage all District Contractors to voluntarily post the District's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

8.16 DISTRICT'S QUALITY ASSURANCE PLAN

The District or its agent will evaluate the Contractor's performance under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the District determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures

taken by the District and the Contractor. If improvement does not occur consistent with the corrective action measures, the District may terminate this Contract or seek other remedies as specified in this Contract.

8.17 DAMAGE TO DISTRICT FACILITIES, BUILDINGS OR GROUNDS

8.17.1 Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to District facilities, buildings, or grounds caused by Contractor or employees or agents of Contractor. Such repairs shall be made immediately after Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.17.2 If Contractor fails to make timely repairs, District may make any necessary repairs. All costs incurred by District, as determined by District, for such repairs shall be repaid by Contractor by cash payment upon demand.

8.18 EMPLOYMENT ELIGIBILITY VERIFICATION

The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law. The Contractor shall indemnify, defend, and hold harmless, the District, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the District or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.19 FACSIMILE REPRESENTATIONS

The District and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Change Notices and Amendments prepared pursuant to Sub-paragraph 8.4, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Change Notices and Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with

subsequent (non-facsimile) transmission of "original" versions of such documents.

8.20 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the District and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the District may be found jointly or solely liable.

8.21 GOVERNING LAW, JURISDICTION, AND VENUE

4. This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.22 INDEPENDENT CONTRACTOR STATUS

8.22.1 This Contract is by and between the District and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the District and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

5. **8.22.2** The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The District shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the District. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any

work performed by or on behalf of the Contractor pursuant to this Contract.

8.22.4 The Contractor shall cause each employee performing services covered by this Contract to sign and adhere to the “*Contractor Employee Acknowledgment & Confidentiality Agreement*”, *Exhibit F1*. The Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the “*Contractor Non-Employee Acknowledgment & Confidentiality Agreement*”, *Exhibit F2*.

8.23 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless the District, the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Contract.

8.24 GENERAL INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the District and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the District. Such coverage shall be provided and maintained at the Contractor's own expense.

8.24.1 Evidence of Insurance: Prior to commencing services under this Contract, a Certificate of Insurance (ACORD Certificate) and the Additional Insured Endorsement (CGL policy) or other evidence of coverage satisfactory to the District. Certificates must be updated as coverage's expire or are renewed or replaced. Documents shall be delivered to:

County of Los Angeles Fire Department
Support Services Bureau / Contracts Section
1320 N. Eastern Avenue, Room 111, FCCF
Los Angeles, California 90063-3294

Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the District is to be

given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;

- Include copies of the additional insured endorsement to the commercial general liability policy, adding the District, County of Los Angeles, its Special Districts, its officials, officers and employees as insured for all activities arising from this Contract; and
- Identify any deductibles or self-insured retention for the District's approval. The District retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retention as they apply to the District, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.2 Insurer Financial Ratings: Insurance is to be provided by an insurance company acceptable to the District with an A.M. Best rating of not less than A:VII unless otherwise approved by the District.

8.24.3 Failure to Maintain Coverage: Failure by the Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the District, shall constitute a material breach of the Contract upon which the District may immediately terminate or suspend this Contract. The District, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the District may purchase such required insurance coverage, and without further notice to the Contractor, the District may deduct from sums due to the Contractor any premium costs advanced by the District for such insurance.

8.24.4 Notification of Incidents, Claims or Suits: Contractor shall report to the District:

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the District. Such report shall be made in writing within 24 hours of occurrence.
- Any third party claim or lawsuit filed against the

Contractor arising from or related to services performed by the Contractor under this Contract.

- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the District's Contract Administrator.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of District property, monies or securities entrusted to the Contractor under the terms of this Contract.

8.24.5 Compensation for District Costs: In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the District, the Contractor shall pay full compensation for all costs incurred by the District.

8.24.6 Insurance Coverage Requirements for Subcontractors: The Contractor shall ensure any and all subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

- The Contractor providing evidence of insurance covering the activities of subcontractors, or
- The Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. The District retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

8.25 INSURANCE COVERAGE REQUIREMENTS

8.25.1 General Liability insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

8.25.2 Automobile Liability written on ISO policy form CA 00 01 or its equivalent, with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

8.25.3 Workers' Compensation and Employers' Liability

insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor's employees will be engaged in maritime employment, coverage shall provide workers' compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which the Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

8.26 LIQUIDATED DAMAGES

8.26.1 If, in the judgment of District, the Contractor breaches the Contract requirements as specified in the *Performance Requirements Summary (PRS) Chart*, as defined in *Appendix C, Technical Exhibit 2*, hereunder, the District will have a claim for the sum specified in the PRS, to be paid by the Contractor in accordance with the Contract as liquidated damages. The District's Contract Administrator shall notify Contractor in writing of the specific instances and areas of noncompliance and/or nonperformance and the corresponding unsatisfactory performance deductions.

8.26.2 This paragraph shall not, in any manner, restrict or limit the District's right to damages for any breach of this Contract other than those breaches of this Contract specified in the PRS, and shall not, in any manner, restrict or limit the District's right to terminate this Contract as agreed to herein.

8.27 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the District.

8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION

8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard

to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.28.2 The Contractor shall certify to, and comply with, the provisions of *Exhibit C - Contractor's EEO Certification*.

8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, or physical or mental disability, marital status, or political affiliation.

8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.

8.28.6 The Contractor shall allow District and/or County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Sub-paragraph 8.27 when so requested by the District and/or County.

8.28.7 If the District finds that any provisions of this Sub-paragraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract. While the District reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California

Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the District that the Contractor has violated the anti-discrimination provisions of this Contract.

8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the District shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

8.29 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with Contractor. This Contract shall not restrict District from acquiring similar, equal or like goods and/or services from other entities or sources.

8.30 NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) day, give notice thereof, including all relevant information with respect thereto, to the other party.

8.31 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the District's Project Manager and/or District's Contract Administrator any dispute between the District and the Contractor regarding the performance of services as stated in this Contract. If the District's Project Manager and/or District's Contract Administrator is not able to resolve the dispute, the District's Contract Director, or authorized designee, shall resolve it.

8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in *Exhibit I, Safely Surrendered Baby Law*, of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

8.34 NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in *Exhibit D - District's Administration* and *Exhibit E - Contractor's Administration*. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The District's Contract Administrator shall have the authority to issue all notices or demands required or permitted by the District under this Contract.

8.35 PUBLIC RECORDS ACT

8.35.1 Any documents submitted by Contractor; all information obtained in connection with the District's right to audit and inspect Contractor's documents, books, and accounting records pursuant to Sub-paragraph 8.37 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the Invitation for Bid (IFB) used in the solicitation process for this Contract, become the exclusive property of the District. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.35.2 In the event the District is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the District from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.36 PUBLICITY

6. **8.36.1** The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the District shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:
- The Contractor shall develop all publicity material in a professional manner; and
 - During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the District without the prior written consent of the District's Contract Director. The District shall not unreasonably withhold written consent.
7. **8.36.2** The Contractor may, without the prior written consent of District, indicate in its proposals and sales materials that it has been awarded this Contract with the District, provided that the requirements of this Sub-paragraph 8.36 shall apply.

8.37 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the District and County, or their authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Contract. All such material, including, but not limited to, all financial records, timecards and other employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the District and/or County during the term of this Contract and for a period of five (5) years thereafter unless the District's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the District's option, the Contractor shall pay the County for travel, per diem, and other costs

incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.37.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the District's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. The District shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.37.2 Failure on the part of the Contractor to comply with any of the provisions of this Sub-paragraph 8.37 shall constitute a material breach of this Contract upon which the District may terminate or suspend this Contract.

8.37.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the District and County may conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the District's dollar liability for any such work is less than payments made by the District to the Contractor, then the difference shall be either: a) repaid by the Contractor to the District by cash payment upon demand or b) at the sole option of the District's Auditor-Controller, deducted from any amounts due to the Contractor from the District, whether under this Contract or otherwise. If such audit finds that the District's dollar liability for such work is more than the payments made by the District to the Contractor, then the difference shall be paid to the Contractor by the District by cash payment, provided that in no event shall the District's maximum obligation for this Contract exceed the funds appropriated by the District for the purpose of this Contract.

8.38 RECYCLED BOND PAPER

The Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.39 SUBCONTRACTING

8.39.1 The requirements of this Contract may not be subcontracted by the Contractor without the advance approval of the District. Any attempt by the Contractor to subcontract without the prior consent of the District may be deemed a material breach of this Contract.

- 8.39.2** If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the District's request:
- A description of the work to be performed by the subcontractor;
 - A draft copy of the proposed subcontract; and
 - Other pertinent information and/or certifications requested by the District.
- 8.39.3** The Contractor shall indemnify and hold the District harmless with respect to the activities of each and every subcontractor in the same manner and to the same degree as if such subcontractor(s) were Contractor employees.
- 8.39.4** The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the District's approval of the Contractor's proposed subcontract.
- 8.39.5** The District's consent to subcontract shall not waive the District's right to prior and continuing approval of any and all personnel, including subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its subcontractors of this District right.
- 8.39.6** The District's Project Manager or authorized designee shall be authorized to act for and on behalf of the District with respect to approval of any subcontract and subcontractor employees.
- 8.39.7** The Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the District's consent to subcontract.
- 8.39.8** The Contractor shall obtain certificates of insurance, which establish that the subcontractor maintains all the programs of insurance required by the District from each approved subcontractor. Prior to any subcontractor employee performing any work hereunder, Contractor shall ensure delivery of all such documents to:

Consolidated Protection District of Los Angeles County
Support Services Bureau / Contracts Section
1320 N. Eastern Avenue, Room 111, FCCF
Los Angeles, California 90063-3294

8.40 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.14 - Contractor's Warranty of Adherence to District's Child Support Compliance Program, shall constitute a default by the Contractor under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure to cure such default within 90 days of notice by the Los Angeles County Child Support Services Department shall be grounds upon which the District's Board of Supervisors may terminate this Contract pursuant to Sub-paragraph 8.42 - Termination for Default.

8.41 TERMINATION FOR CONVENIENCE

8.41.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by District, by and through Fire Chief, or his designee, to be in its best interest. Termination of work hereunder shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.41.2 After receipt of a notice of termination and except as otherwise directed by the District, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.41.3 For a period of five (5) years after final settlement under this Contract, the Contractor shall make available to the District, at all reasonable times, all its books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract with respect to the termination of work hereunder. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit,

excerpt, copy, or transcribe such material at such other location.

8.42 TERMINATION FOR DEFAULT

8.42.1 The District by and through Fire Chief may by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of District's Contract Administrator:

- Contractor has materially breached this Contract;
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the District may authorize in writing) after receipt of written notice from the District specifying such failure.

8.42.2 In the event that the District terminates this Contract in whole or in part as provided in Sub-paragraph 8.42.1, the District may procure, upon such terms and in such manner as the District may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the District for any and all excess costs incurred by the District, as determined by the District, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this sub-paragraph.

8.42.3 Except with respect to defaults of any subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Sub-paragraph 8.42.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes

beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such excess costs for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Sub-paragraph 8.42.3, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

8.42.4 If, after the District has given notice of termination under the provisions of this Sub-paragraph 8.42, it is determined by the District that the Contractor was not in default under the provisions of this Sub-paragraph 8.42, or that the default was excusable under the provisions of Sub-paragraph 8.42.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Sub-paragraph 8.41 - Termination for Convenience.

8.42.5 In the event the District terminates this Contract in its entirety due to the Contractor's default as provided in Sub-paragraph 8.42.1, the Contractor and the District agree that the District will have actual damages, which are extremely difficult to calculate and impracticable to fix and which will include, but are not limited to, the District's costs of procurement of replacement services and costs incurred due to delays in procuring such services. Therefore, the Contractor and the District agree that the District shall, at its sole option and in lieu of the provisions of Sub-paragraph 8.42.2, be entitled to liquidated damages from the Contractor, pursuant to California Civil Code Section 1671, in the amount of Five Thousand Dollars (\$5,000) or five percent (5%) of the applicable year's Contract sum, whichever is less, as equitable compensation to the County for such actual damages. This amount of liquidated damages shall be either paid by the Contractor to the District by cash payment upon demand or, at the sole discretion of the District, or designee, deducted from any amounts due to the Contractor by the District, whether under this Contract or otherwise.

These liquidated damages shall be in addition to any credits, which the District is otherwise entitled to under this Contract, and the Contractor's payment of these liquidated damages shall not in any way change, or affect the provisions of Sub-paragraph 8.23 - Indemnification.

- 8.42.6** The rights and remedies of the District provided in this Sub-paragraph 8.42 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.43 TERMINATION FOR IMPROPER CONSIDERATION

- 8.43.1** The District may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any District and/or County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the District shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.
- 8.43.2** The Contractor shall immediately report any attempt by a District and/or County officer or employee to solicit such improper consideration. The report shall be made either to the District and/or County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.
- 8.43.3** Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.44 TERMINATION FOR INSOLVENCY

8. **8.44.1** The District may terminate this Contract forthwith in the event of the occurrence of any of the following:
- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;

- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.44.2 The rights and remedies of the District provided in this Subparagraph 8.44 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.45 TERMINATION FOR NON-ADHERENCE OF DISTRICT LOBBYIST POLICY

9. It is the District policy that the Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the District may in its sole discretion, immediately terminate or suspend this Contract.

8.46 TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, the District shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the District's future fiscal years unless and until the District's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The District shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.47 VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.48 WAIVER

10. No waiver by the District of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the District to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Subparagraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.49 WARRANTY AGAINST CONTINGENT FEES

8.49.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.49.2 For breach of this warranty, the District shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the Consolidated Fire Protection District of Los Angeles County, by order of its governing body the Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

TANKS UNLIMITED

By _____
Name Title

CONSOLIDATED FIRE PROTECTION DISTRICT
OF LOS ANGELES COUNTY

By _____
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-Clerk
of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

Lloyd W. Pellman
County Counsel

By _____
Principal Deputy County Counsel

EXHIBIT A

STATEMENT OF WORK

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SIGNAL HILL
SOUTH EL MONTE
SOUTH GATE
TEMPLE CITY
WALNUT
WEST HOLLYWOOD
WESTLAKE VILLAGE
WHITTIER

- 1.9** Contractor shall repair the type of physical damage to composite materials allowed to be repaired by the application of a two part, room temperature cure epoxy resin.
- 1.10** Contractor shall perform an internal cleaning when the cylinder has been contaminated.
- 1.11** The cost of the retesting is all-inclusive (i.e., cost of test, replacement of O-ring, repair of composite material, pick up and delivery).
- 1.12** Contractor shall not invoice District fees for retesting and/or internal cleaning if cylinder is condemned.
- 1.13** Contractor shall condemn a cylinder when it meets rejection standards in accordance with DOT, under the provisions of Section 173.34(e)(5) of Title 49, 49 CFR.
- 1.13.1** Contractor shall notify the District's Project Manager of the rejection and return the condemned cylinder to the following location:
- County of Los Angeles Fire Department
Pacoima Breathing Shop
12605 Osborne Street
Pacoima, CA 91331
- 1.14** Contractor shall have a business located within or adjacent to Los Angeles County.

2.0 PICK UP AND DELIVERY OF CYLINDERS

Contractor shall pick up and deliver cylinders from the following three (3) locations:

- Pacoima Breathing Shop
12605 Osborne Street
Pacoima, CA 91331
- Fire Station 10
1860 East Del Amo Blvd.
Carson, CA 90746
- Fire Station 151
231 West Mountain View Ave.
Glendora, CA 91740

3.0 AWARD OF WORK

District will issue work orders at its complete discretion based upon the needs of the District. This Contract does not grant the Contractor any right to be awarded any minimum amount of work.

4.0 ADDITION/DELETION OF SPECIFIC TASKS

- 4.1** District reserves the right to add/delete cylinders throughout the term of this Contract.

- 4.2 District reserves the right to add/delete pick up and delivery throughout the term of this Contract.

5.0 DOCUMENTATION

- 5.1 Contractor shall provide District the following completed forms for each cylinder, as applicable:

- Cylinder Retest Form
- Visual Inspection Form
- Calibration Test Form

Forms should contain records in accordance with DOT, under the provisions of Section 173.34(e)(8) of Title 49, 49 CFR. An example of the above forms must be submitted by Contractor 10 business days after Contract's effective date.

- 5.2 Contractor shall provide a hard copy of the records described in sub-paragraph 5.1 upon completion of the work performed. Documentation must be submitted along with the invoice to District's Project Manager or authorized designee for invoice approval.

6.0 QUALITY CONTROL

The Contractor shall establish and utilize a comprehensive Quality Control Plan to assure the District receives a consistently high level of service throughout the term of the Contract. The Plan shall be submitted to the District's Project Manager for review within forty-five (45) business days after Contract's effective date. The plan shall include, but may not be limited to the following:

- 6.1 Method of monitoring to ensure the Contract requirements are being met;
- 6.2 A record of all inspections conducted by the Contractor, any corrective action taken, the time a problem was first identified, a clear description of the problem, and the time elapsed between identification and completed corrective action, shall be provided to the District upon request.

7.0 QUALITY ASSURANCE PLAN

The District will evaluate the Contractor's performance under this Contract using the quality assurance procedures as defined in this Contract, Paragraph 8, Terms and Conditions, Sub-paragraph 8.15, District Quality Assurance Plan.

7.1 Meetings

Contractor is required to attend a scheduled meeting. Failure to attend will cause an assessment of fifty dollars (\$50.00).

7.2 Contract Discrepancy Report (*Technical Exhibit 1*)

- 7.2.1 District shall monitor Contractor's performance to the Contract based on, but not limited to, the Performance Requirements Summary. If at any time during the term of the Contract, the work does not meet the performance standards, the District shall write a Contract Discrepancy Report (CDR) and issue the CDR to the Contractor.

The District Contract Administrator will determine whether a formal CDR shall be issued. Upon receipt of this document, the Contractor is required to respond in writing to the District Project Manager within five (5) workdays, acknowledging the reported discrepancies or presenting contrary evidence. A plan for correction of all deficiencies identified in the CDR shall be submitted to the District's Project Manager within five (5) workdays.

- 7.2.2** As indicated in sub-paragraph 7.2.1 above, District will issue a CDR to Contractor as a means to correct all deficiencies and to preclude a recurrence. For continued same incident occurrences, the District will reduce Contractor's payment in accordance with the payment deduction schedule outlined below. Upon occurrence of the same incident for the 4th time, District may issue a show cause letter requiring Contractor to indicate why Contract should not be terminated for default. Inadequate explanations to the show cause letter by Contractor may cause the agreement to be terminated for default.

Payment Deduction

First Incident	CDR sent with corrective action requested
Second Incident	\$50.00 deduction from Contractor's payment and CDR sent with corrective action requested
Third Incident	\$100.00 deduction from Contractor's payment and CDR sent with corrective action requested
Fourth Incident	\$250.00 deduction from Contractor's payment and Issuance of show cause letter requiring Contractor to explain why District should not terminate the Contract for default

7.3 County Observations

In addition to District's contracting staff, other County personnel may observe performance, activities, and review documents relevant to this Contract at any time during normal business hours. However, these personnel may not unreasonably interfere with the Contractor's performance.

8.0 RESPONSIBILITIES

District and Contractor responsibilities are as follows:

DISTRICT

8.1 Personnel

The District will administer the Contract according to the Contract, Paragraph 6.0, Administration of Contract. Specific duties will include:

- 8.1.1** Monitoring the Contractor's performance in the daily operation of this Contract.

- 8.1.2 Providing direction to the Contractor in areas relating to policy, information and procedural requirements.
- 8.1.3 Preparing Change Notices in accordance with the Contract, Paragraph 8.0, Terms and Conditions, Sub-paragraph 8.4 Change Notices and Amendments.

CONTRACTOR

8.2 Project Manager

- 8.2.1 Contractor shall provide a full-time Project Manager or designated alternate. District must have access to the Project Manager during all hours, 365 days per year. Contractor shall provide a telephone number where the Project Manager may be reached on a twenty-four (24) hour per day basis.
- 8.2.2 Project Manager shall act as a central point of contact with the District. Project Manager shall demonstrate previous experience in the management of work requirements for facilities similar in size and complexity.
- 8.2.3 Project Manager/alternate shall have full authority to act for Contractor on all matters relating to the daily operation of the Contract. Project Manager/alternate shall be able to effectively communicate, in English, both orally and in writing.

8.3 Personnel

Contractor shall assign a sufficient number of employees to perform the required work. At least one employee on site shall be authorized to act for Contractor in every detail and must speak and understand English.

8.4 Materials and Equipment

The purchase of all materials/equipment to provide the needed services is the responsibility of the Contractor. Contractor shall use materials and equipment that are safe for the environment and safe for use by the employee.

8.5 Safety Requirements

All work will be conducted in a safe manner and will comply with the requirements of state and local rules and regulations or OSHA safety standards.

- 8.5.1 All Contractor personnel must work according to Federal and/or California Occupational Safety and Health Agency (OSHA) standards. Contractor must comply with the Injury and Illness Prevention Program (IIPP) standards and records. A copy of the Contractor's IIPP shall be submitted to District's Contract Administrator within forty-five (45) business days after the Contract's effective date.
- 8.5.2 Contractor personnel shall provide a written report of any incident/accidents that occur on District property immediately, but in no

event longer than within 24 hours of occurrence or discovery of occurrence to District's Project Manager or authorized designee.

8.6 Training

8.6.1 Contractor shall provide training programs for all new employees and continuing in-service training for all employees.

8.6.2 All employees shall be trained in their assigned tasks and in the safe handling of equipment. All equipment shall be checked daily for safety. All employees must wear safety and protective gear according to OSHA standards.

8.7 Contractor's Office

Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, by at least one employee who can respond to inquiries and complaints which may be received about the Contractor's performance of the Contract. When the office is closed, an answering service shall be provided to receive calls.

9.0 HOURS/DAYS OF WORK

At a minimum, Contractor shall receive cylinders for requalification work during the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. District may require additional service hours in order to meet specific needs as emergency situations occur.

10.0 SECURITY OF DISTRICT'S CYLINDERS

10.1 Contractor is responsible for cylinders accepted for service. Responsibility entails ensuring reasonable steps are taken to secure cylinders from theft or vandalism.

10.2 Incidents of theft or vandalism to District's cylinders left in Contractor's care must be reported to the District's Project Manager or authorized designee immediately. Contractor shall notify and report theft/vandalism to local law enforcement.

10.3 Contractor may be held liable for the replacement/repair of cylinders damaged while under the control of the Contractor due to negligence or poor security.

10.4 The repair or replacement cost for damage to or loss of District's property shall be deducted from, or credited to District's invoice submitted by the Contractor, as determined by the District's Project Manager or authorized designee.

11.0 PERFORMANCE REQUIREMENTS SUMMARY

All listings of services used in the Performance Requirements Summary (PRS), Technical Exhibit 2, are intended to be completely consistent with the Contract and the SOW, and are not meant in any case to create, extend, revise, or expand any obligation of Contractor beyond that defined in the Contract and the SOW. In any case of apparent inconsistency between services as stated in the Contract and the SOW and this PRS, the meaning apparent in the Contract and the SOW will prevail. If any service seems to be created in this PRS which is not clearly and forthrightly set forth in the Contract and the SOW, that apparent service will be null and void and place no requirement on Contractor.

When the Contractor's performance does not conform to the requirements of this Contract, the District will have the option to apply the following non-performance remedies:

- Require Contractor to implement a formal corrective action plan, subject to approval by the District. In the plan, the Contractor must include reasons for the unacceptable performance, specific steps to return performance to an acceptable level, and monitoring methods to prevent recurrence.
- Reduce payment to Contractor by the amount based on deductions/fees to be assessed in the PRS.
- Monetary assessment imposed on Contractor by the District's Contract Administrator for documented contract discrepancies shall be increased incrementally in the event the same contract discrepancy occurs a second or subsequent time.
- Reduce, suspend or cancel this Contract for systematic, deliberate misrepresentations or unacceptable levels of performance.
- Failure of the Contractor to comply with or satisfy the request(s) for improvement of performance or to perform the neglected work specified within five (5) days shall constitute authorization for the District to have the service(s) performed by others. The entire cost of such work performed by others as a consequence of the Contractor's failure to perform said service(s), as determined by the District, shall be credited to the District on the Contractor's future invoice.

This section does not preclude the District's right to terminate the Contract upon ten (10) days written notice with or without cause, as provided for in the Contract, Paragraph 8, Terms and Conditions, Sub-paragraph 8.40, Termination for Convenience.

12.0 DELIVERABLES

Contractor shall provide deliverables in written hard copy unless otherwise approved by District in accordance with the below matrix:

Deliverables	Due date	Reference
<ul style="list-style-type: none">➤ Cylinder Retest Form➤ Visual Inspection Form➤ Calibration Test Form	10 business days after Contract's effective date	4.0
Contractor's Quality Control Plan	45 business days after Contract's effective date	5.0
Injury and Illness Prevention Program	45 business days after Contract's effective date	7.5